IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

RPFC.No. 8 of 2007(E)

MC.10/2006 of FAMILY COURT, MALAPPURAM

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PETITIONER/RESPONDENT:

PUNNAKKAL SIVADAS, S/O. KARAPPAYI,
KADAVANAD AMSOM, DESOM, P.O. KADAVANAD,
PONNANI TALUK, REPRESENTED BY HIS POWER OF
ATTORNEY HOLDER, SURESH P.K., S/O. KARAPPAYI,
PUNNAKKAL HOUSE, P.O. KADAVANAD, PONNANI,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.RAMAKUMAR
SRI.T.RAMPRASAD UNNI

RESPONDENTS: PETITIONER & STATE:

PUKKAYIL BEENA, D/O. VASU,
EZHAVATHIRUTHI AMSOM, DESOM, P.O. KADAVANAD,
PONNANI TALUK, MALAPPURAM DISTRICT.

BY ADVOCATE SRI.P.CHANDRASEKHAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON **09/07/2007**, THE COURT ON 12/07/2007 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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R.P. (FC) NO. 8 of 2007

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Dated, this the 12th day of July 2007

ORDER

Petitioner who is the husband of the respondent herein challenges the order dated 16-10-2006 passed by the Family Court, Malappuram in M.C. 10 of 2006 awarding Rs. 5,000/- per month by way of monthly maintenance to the respondent from 3-1-2006 onwards.

2. Heard both sides.

3. The learned counsel appearing for the revision petitioner/husband made the following submissions in support of this Revision:-

It is true that the petitioner who is working in Dubai had taken his wife to Dubai for a few years. But from that alone, it cannot be assumed that he is having a fabulous income. He is working as a Driver only. The revision petitioner had never subjected her to cruelty nor had he appropriated her ornaments or money as alleged . He had sent two gold chains of 12 sovereigns and six bangles to be given to his sisters and when the respondent did not give them to his sisters he had questioned her about that and thereupon she left the

matrimonial home without his permission. His own brother who is aware of the conduct of the respondent had given evidence on his behalf as his power-of-attorney holder. The Court below should have dismissed the application for maintenance.

4. I am afraid that I cannot agree with the above submissions. The parties are Hindus. The marriage between the Revisions Petitioner and the Respondent was on 6-3-1997. Admittedly, the revision petitioner is employed in Dubai for the past several years. Even prior to the marriage, he was well settled abroad. It is an admitted fact that after two years of the marriage he had taken his wife (the respondent therein) to Dubai and both of them were residing together in Dubai for six years. Thereafter, he sent her back to India. Subsequently, the revision petitioner had raised an unnecessary dispute regarding the gold ornaments and the parties fell apart since 11-5-2005 from which date onwards she is residing in her parental home without being maintained by her husband. The respondent gave evidence as P.W.1 and she spoke in terms of her petition in which she had claimed a sum of Rs. 7,500/- (Rupees seven thousand five hundred only) per month by way of maintenance.

5. The Revision Petition did not mount the witness box. Instead, he examined his brother as R.W.1. R.W.1 was not

competent to testify regarding the matrimonial cruelty alleged by P.W.1 or regarding the case set up by the husband in his counter. According to P.W.1 the revision petitioner is well employed in Dubai. If the revision petitioner was employed only as a driver and was getting only a meager income, then in the normal course, it would not have been possible for him to take his wife abroad. She has deposed that they were residing together in Dubai in a separate flat taken by her husband for a long period of six years. It was after considering the status of the parties and needs of the wife and the affluent circumstances of the revision petitioner/husband that the trial judge awarded Rs. 5,000/- (Rupees five thousand only) per month. The trial judge who had the unique advantage of seeing the witnesses and assessing their credibility has chosen to believe P.W.1 in preference to R.W.1. Under these circumstances, I see no reason to interfere with the order passed by the Family court.

This Revision which is devoid of merit is accordingly dismissed.

V. RAMKUMAR,
(JUDGE)

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